

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1204

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AN ACT to amend the Indiana Code concerning public safety.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 10-13-7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 7. Emergency Alert System Advisory Committee**

**Sec. 1.** As used in this chapter, "committee" refers to the emergency alert system advisory committee established by section 3 of this chapter.

**Sec. 2.** As used in this chapter, "emergency alert system" refers to the system described in 47 CFR 11.

**Sec. 3.** The emergency alert system advisory committee is established.

**Sec. 4. (a)** The committee consists of the following members:

- (1) The superintendent or the superintendent's designee. The superintendent or the superintendent's designee is the committee's chair.
- (2) The executive director of the department of homeland security or the executive director's designee.
- (3) The state health commissioner or the commissioner's designee.
- (4) An individual representing the National Weather Service, appointed by the governor.

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(5) Two (2) individuals representing television broadcasters in Indiana, appointed by the governor.

(6) Two (2) individuals representing radio broadcasters in Indiana, appointed by the governor.

(7) An individual representing an Indiana newspaper that maintains a twenty-four (24) hour web site, appointed by the governor.

(8) An individual representing a video service provider that provides video service to Indiana consumers, appointed by the governor.

(b) The following apply to a committee member appointed under subsection (a)(4), (a)(5), (a)(6), (a)(7), or (a)(8):

(1) The term of a member begins on one (1) of the following dates, whichever applies, during the year in which the member is appointed:

(A) July 1, if the member is appointed on or before July 1.

(B) The day the member accepts the member's appointment, if the member is appointed after July 1.

(2) The term of a member expires on July 1 of the fourth year after the year the member's term begins.

(3) A member may be reappointed to serve a new term.

**Sec. 5. The committee shall do the following:**

(1) Develop, update, and monitor the effectiveness of the state emergency alert system plan.

(2) Make recommendations concerning the acquisition of appropriate technology and equipment to make the emergency notification system effective on a timely basis in all parts of Indiana.

(3) Through the department, purchase appropriate technology and equipment to equip local primary relaying stations with monitoring equipment.

(4) Make applications for private, local, state, or federal grants to be used to enhance or improve the emergency alert system.

**Sec. 6. The department shall provide administrative and staff support for the committee.**

**Sec. 7. (a) The committee's expenses shall be paid from appropriations made by the general assembly.**

**(b) Money received by the committee as a grant or a gift is appropriated for purposes of the grant or the gift.**

**Sec. 8. (a) Each member of the committee who is not a state employee is not entitled to the minimum salary per diem provided**

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by IC 4-10-11-2.1(b). The member is, however, entitled to reimbursement for travel expenses as provided in IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the committee who is a state employee is entitled to reimbursement for travel expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

**Sec. 9. The affirmative votes of a majority of the members on the committee are required for the committee to take action on any measure.**

SECTION 2. IC 36-8-16-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) As used in this chapter, "exchange access facility" means the access from a particular service user's premises to a telephone system.

(b) The term includes:

- (1) an access line;
- (2) a private branch exchange (PBX) trunk; and
- (3) a centrex line trunk equivalent;

that is provided by the service supplier. The term also includes a mobile telephone system access trunk, whether the trunk is provided by a telephone company or a radio common carrier. **In the case of a service user receiving interconnected VoIP service, the term refers to the Internet protocol compatible customer premises equipment that enables the service user to access the interconnected VoIP service.**

(c) The term does not include:

- (1) a service supplier owned and operated telephone pay station line;
- (2) a wide area telecommunications service (WATS) line;
- (3) a foreign exchange (FX) line; or
- (4) an incoming only line.

SECTION 3. IC 36-8-16-3.3 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.3. As used in this chapter, "interconnected VoIP service" has the meaning set forth in 47 CFR 9.3.**

SECTION 4. IC 36-8-16-3.5 IS ADDED TO THE INDIANA CODE

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AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. As used in this chapter, "PSAP" has the meaning set forth in IC 36-8-16.5-13.**

SECTION 5. IC 36-8-16-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) As used in this chapter, "service supplier" means a person who provides ~~exchange~~ telephone ~~exchange~~ service to a service user **in Indiana. The term includes a person who offers interconnected VoIP service to a service user whose registered location (as defined in 47 CFR 9.3) is in Indiana.**

(b) As used in this chapter, "service user" means a person to whom ~~exchange~~ telephone ~~exchange~~ service is provided.

SECTION 6. IC 36-8-16-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) An enhanced emergency telephone system fee must be uniform and may not vary according to the type of exchange access facilities used in the unit.

(b) The ordinance imposing a fee under section 5 of this chapter may not impose a fee that exceeds the following:

- (1) In a county that has a consolidated city or a county that has at least one (1) second class city, three percent (3%) of the average monthly telephone access line charge in the unit.
- (2) In a county that does not have a consolidated city or a second class city, ten percent (10%) of the average monthly telephone access line charge in the unit.

**(c) In calculating the average monthly telephone access line charge for purposes of this section, the unit imposing the fee shall include the average monthly charge that:**

- (1) is imposed by providers of interconnected VoIP service to service users whose registered location (as defined in 47 CFR 9.3) is in the unit; and**
- (2) represents the charge for the service user's access to the interconnected VoIP service.**

SECTION 7. IC 36-8-16-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. **Except as provided in section 7.5 of this chapter,** the fiscal body of a unit may adopt an ordinance to change the amount of the enhanced emergency telephone system fee that it imposed under section 5 of this chapter. However, the new fee must comply with the limitations provided in section 6 of this chapter. In addition, the fiscal body of a unit may not adopt more than one (1) ordinance in any calendar year to change the unit's fee.

SECTION 8. IC 36-8-16-7.5 IS ADDED TO THE INDIANA CODE

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AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7.5. (a) This section applies to a unit that imposes an enhanced emergency telephone system fee under section 5 of this chapter on March 15, 2008.**

**(b) During the period beginning March 15, 2008, and ending on the date on which:**

- (1) the unit, if the unit is a county; or**
- (2) the county in which the unit is located, if the unit is a municipality;**

**complies with IC 36-8-16.5-51(c), the unit may not adopt an ordinance under section 7 of this chapter to increase the amount of the enhanced emergency telephone system fee imposed by the unit under section 5 of this chapter. Upon compliance with IC 36-8-16.5-51(c), the unit that, under the terms of the interlocal agreement required by IC 36-8-16.5-51(e), has the authority to impose a fee under this chapter may adopt an ordinance under section 7 of this chapter to increase the amount of the enhanced emergency telephone system fee as necessary to sufficiently fund any PSAP authorized under IC 36-8-16.5-51(c), subject to the limits set forth in section 6 of this chapter.**

SECTION 9. IC 36-8-16-14, AS AMENDED BY P.L.104-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 14. (a) The emergency telephone system fees shall be used only to pay for:**

- (1) except as provided in subsection (c), the lease, purchase, or maintenance of enhanced emergency telephone equipment, including necessary computer hardware, software, and data base provisioning;**
- (2) the rates associated with the service suppliers' enhanced emergency telephone system network services;**
- (3) the personnel expenses of the emergency telephone system;**
- (4) the lease, purchase, construction, or maintenance of voice and data communications equipment, communications infrastructure, or other information technology necessary to provide emergency response services under authority of the unit imposing the fee; and**
- (5) an emergency telephone notification system under IC 36-8-21.**

The legislative body of the unit may appropriate money in the fund only for such an expenditure.

**(b) This subsection applies to a county that:**

- (1) imposes a fee under section 5 of this chapter; and**
- (2) contains a municipality that operates a PSAP (as defined in**

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IC 36-8-16.5-13).

Not later than January 31 of each year, the county fiscal body shall submit to each municipality described in subdivision (2) a report of all expenditures described in subsection (a) paid during the immediately preceding calendar year.

**(c) The state board of accounts shall audit the expenditures of emergency telephone system fees made during each of the following calendar years by each unit that imposed a fee under section 5 of this chapter during the following calendar years:**

- (1) The calendar year ending December 31, 2005.**
- (2) The calendar year ending December 31, 2006.**
- (3) The calendar year ending December 31, 2007.**

**Not later than November 1, 2008, the state board of accounts shall report to the regulatory flexibility committee established by IC 8-1-2.6-4 on the audits conducted under this subsection.**

**(d) The state board of accounts annually shall audit the expenditures of emergency telephone system fees made during the immediately preceding calendar year by each unit that imposes a fee under section 5 of this chapter. The state board of accounts shall conduct the first audits required by this subsection with respect to expenditures of emergency telephone system fees made during the calendar year ending December 31, 2008.**

**(e) In conducting the audits required under subsections (c) and (d), the state board of accounts shall determine whether the expenditures made by each unit are in compliance with:**

- (1) subsection (a); and**
- (2) section 15 of this chapter, as appropriate.**

SECTION 10. IC 36-8-16.5-41 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 41. (a) A PSAP shall use its distribution made under section 39 of this chapter for the lease, purchase, or maintenance of wireless enhanced emergency telephone equipment, including:

- (1) necessary computer hardware, software, and data base equipment;
- (2) personnel expense and training;
- (3) the provision of wireless enhanced emergency service; or
- (4) educating consumers about the operations, limitations, role, and responsible use of enhanced 911 service.

(b) If:

- (1) the board receives a written complaint alleging that a PSAP has used money received under this chapter in a manner that is inconsistent with this chapter; and

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(2) a majority of the board votes to conduct an audit of the PSAP; the board may contract with a third party auditor to audit the PSAP to determine whether the PSAP has used money received under this chapter in a manner consistent with this chapter.

**(c) The state board of accounts shall audit the expenditures of wireless emergency enhanced 911 fees made during each of the following calendar years by each PSAP that received distributions under section 39 of this chapter during the following calendar years:**

- (1) The calendar year ending December 31, 2005.**
- (2) The calendar year ending December 31, 2006.**
- (3) The calendar year ending December 31, 2007.**

**Not later than November 1, 2008, the state board of accounts shall report to the regulatory flexibility committee established by IC 8-1-2.6-4 on the audits conducted under this subsection.**

**(d) The state board of accounts annually shall audit the expenditures of wireless emergency enhanced 911 fees made during the immediately preceding calendar year by each PSAP that received distributions under section 39 of this chapter during the immediately preceding calendar year. The state board of accounts shall conduct the first audits required by this subsection with respect to expenditures of wireless emergency enhanced 911 fees made during the calendar year ending December 31, 2008.**

**(e) In conducting the audits required under subsections (c) and (d), the state board of accounts shall determine whether the expenditures made by each PSAP are in compliance with subsection (a).**

**SECTION 11. IC 36-8-16.5-51 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 51. (a) For purposes of this section, a PSAP includes a public safety communications system operated and maintained under IC 36-8-15.**

**(b) As used in this section, "PSAP operator" means:**

- (1) a political subdivision; or**
- (2) an agency;**

**that operates a PSAP. The term does not include a state educational institution that operates a PSAP or an airport authority established for a county having a consolidated city.**

**(c) Subject to subsection (d), after December 31, 2014, a county may not contain more than two (2) PSAPs. However, a county may contain one (1) or more PSAPs in addition to the number of PSAPs authorized by this section, as long as any additional PSAPs are**

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operated by:

- (1) a state educational institution; or
- (2) an airport authority established for a county having a consolidated city.

(d) If, on March 15, 2008, a county does not contain more than one (1) PSAP, not including any PSAP operated by an entity described in subsection (c)(1) or (c)(2), an additional PSAP may not be established or operated in the county on or after March 15, 2008, unless the additional PSAP is established and operated by:

- (1) a state educational institution;
- (2) in the case of a county having a consolidated city, an airport authority established for the county; or
- (3) the municipality having the largest population in the county or an agency of that municipality.

(e) Before January 1, 2015, each PSAP operator in a county that contains more than the number of PSAPs authorized by subsection (c) shall enter into an interlocal agreement under IC 36-1-7 with every other PSAP operator in the county to ensure that the county does not contain more than the number of PSAPs authorized by subsection (c) after December 31, 2014.

(f) An interlocal agreement required under subsection (e) may include as parties, in addition to the PSAP operators required to enter into the interlocal agreement under subsection (e), any of the following that seek to be served by a county's authorized PSAPs after December 31, 2014:

- (1) Other counties contiguous to the county.
- (2) Other political subdivisions in a county contiguous to the county.
- (3) Other PSAP operators in a county contiguous to the county.

(g) An interlocal agreement required under subsection (e) must provide for the following:

- (1) A plan for the:
  - (A) consolidation;
  - (B) reorganization; or
  - (C) elimination;

of one (1) or more of the county's PSAPs, as necessary to ensure that the county does not contain more than the number of PSAPs authorized by subsection (c) after December 31, 2014.

- (2) A plan for funding and staffing the PSAP or PSAPs that will serve:

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(A) the county; and

(B) any areas contiguous to the county, if additional parties described in subsection (f) participate in the interlocal agreement;

after December 31, 2014.

(3) Subject to any applicable state or federal requirements, protocol to be followed by the county's PSAP or PSAPs in:

(A) receiving incoming 911 calls; and

(B) dispatching appropriate public safety agencies to respond to the calls;

after December 31, 2014.

(4) Any other matters that the participating PSAP operators or parties described in subsection (f), if any, determine are necessary to ensure that the county does not contain more than the number of PSAPs authorized by subsection (c) after December 31, 2014.

(h) This section may not be construed to require a county to contain a PSAP.

SECTION 12. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "committee" refers to the regulatory flexibility committee established by IC 8-1-2.6-4.

(b) As used in this SECTION, "PSAP" has the meaning set forth in IC 36-8-16.5-13.

(c) The committee shall study the appropriate mechanisms for funding both wireline and wireless enhanced emergency telephone systems in Indiana.

(d) In conducting the study required by this SECTION, the committee shall consider the following:

(1) The appropriateness of replacing:

(A) the wireline enhanced emergency telephone system fee that may be imposed under IC 36-8-16; and

(B) the wireless emergency enhanced 911 fee imposed under IC 36-8-16.5;

with a single fee that would apply to all voice communications service, regardless of the technology or protocol used to provide the service.

(2) The appropriate means for collecting and distributing any fees determined to be appropriate under subdivision (1).

(3) The appropriate uses by:

(A) PSAPs;

(B) counties;

(C) municipalities; or

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(D) other political subdivisions or agencies;  
of any fees determined to be appropriate under subdivision (1).

(4) The appropriate agency, board, commission, or other body to administer the collection, distribution, and investment of any fees determined to be appropriate under subdivision (1).

(5) The audits conducted by the state board of accounts under:

(A) IC 36-8-16-14(e); and

(B) IC 36-8-16.5-41(c);

both as added by this act.

(6) The three (3) most recent audits of the wireless emergency telephone system fund conducted under IC 36-8-16.5-24. The wireless enhanced 911 advisory board established by IC 36-8-16.5-18 shall make the audits described in this subdivision available to the committee not later than September 1, 2008.

(7) Any other issues the committee determines to be appropriate in considering the mechanisms for funding wireline and wireless enhanced emergency telephone systems in Indiana.

(e) The committee shall prepare a report on the committee's recommendations, if any, concerning the issues described in subsection (d) and shall submit the report to the legislative council in an electronic format under IC 5-14-6 not later than December 1, 2008.

(f) This SECTION expires January 1, 2009.

SECTION 13. An emergency is declared for this act.

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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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